IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1658 OF 2006
WITH
WRIT PETITION NO.1659 OF 2006
WITH
WRIT PETITION NO.1660 OF 2006

WRIT PETITION NO.1658 OF 2006

Manoj Prabhakar Lohar,)
Aged 33 years, residing at 38,)
Amboli, Andheri (E),)
Mumbai - 400 058.).. Petitioner

Vs.

1. State of Maharashtra,)
through its Secretary,)
Home Department,)
Mantralaya,)
Mumbai - 400 032.)

2. Secretary/Chairman,)
Maharashtra Public Service)
Commission, having its)
Office at Bank of India)
Bldg., 3rd Floor, D.N.Road,)
Fort, Mumbai - 400 023.).. Respondents

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S/Shri S.G.Aney, Senior Counsel, with Samir A.Vaidya, advocate, i/b R.K.Mendadkar, advocate for the petitioner.

Shri Niranjan Pandit, AGP for respondent No.1.

S/Shri P.K.Dhakephalkar, Senior Counsel, with S.R.Ganbavale, advocate, for the respondent No.2.

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WITH

WRIT PETITION NO.1659 OF 2006

Nitin Prabhakar Lohar,)
Aged 31 years, residing at 38,)
Amboli, Andheri (E),)
Mumbai - 400 058.).. Petitioner

Vs.

1. State of Maharashtra,)
through its Secretary,)
Home Department,)
Mantralaya,)
Mumbai - 400 032.)

2. Secretary/Chairman,)
Maharashtra Public Service)
Commission, having its)
Office at Bank of India)
Bldg., 3rd Floor, D.N.Road,)
Fort, Mumbai - 400 023.).. Respondents

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S/Shri R.M.Agarwal with Samir A.Vaidya i/b R.K.Mendadkar, advocate for the petitioner.

Shri Niranjan Pandit, AGP for respondent No.1.

S/Shri P.K.Dhakephalkar, Senior Counsel, with S.R.Ganbavale, advocate, for the respondent No.2.

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WITH

WRIT PETITION NO.1660 OF 2006

Sunil Prabhakar Lohar,)
Aged 35 years, residing at 38,)
Amboli, Andheri (E),)
Mumbai - 400 058.).. Petitioner

Vs.

1. State of Maharashtra,)
through its Secretary,)
Home Department,)
Mantralaya,)
Mumbai - 400 032.)

2. Secretary/Chairman,)
Maharashtra Public Service)
Commission, having its)
Office at Bank of India)
Bldg., 3rd Floor, D.N.Road,)
Fort, Mumbai - 400 023.).. Respondents
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S/Shri S.U.Kamdar with Samir A.Vaidya i/b R.K.Mendadkar, advocate for the petitioner.

Shri Niranjan Pandit, AGP for respondent No.1.

S/Shri P.K.Dhakephalkar, Senior Counsel, with S.R.Ganbavale, advocate, for the respondent No.2.
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CORAM : R.M.S.KHANDEPARKAR &
D.G.KARNIK, JJ

DATED : 10TH AUGUST, 2007

JUDGMENT : (PER R.M.S.KHANDEPARKAR, J)

1. As common questions of law and facts arise in all these three petitions, they were heard together and are being disposed of by this common judgment.

2. In all these petitions, the petitioners are challenging the order passed by the Maharashtra Public

Service Commission on 16th January, 2006 revoking recommendation for appointments of the petitioners, further the order dated 24th January, 2006 passed by the State Government terminating the services of the petitioners and the common judgment and order dated 17th April, 2006 passed by the Maharashtra Administrative Tribunal whereby the said orders have been confirmed while dismissing the appeals filed by the petitioners against the said orders.

3. In all these three petitions, the petitioners claim to be belonging to Gadi Lohar Nomadic Tribe. As regards the petitioner Manoj is concerned, it is his case that he was issued caste certificate on 26th June, 1992 by the competent authority. However, he came to be selected through Maharashtra Public Service Commission, hereinafter called as "the MPSC," in the year 1995 for the post of Class-II Officer from open category and was appointed as the Government Labour Officer at Thane. Thereafter, he was selected by the MPSC in the year 1997-98 for the post of Block Development Officer, Class-I, from open category. Subsequently, as a result of representation made by one Mahesh Bhaskar Patil who was selected as Deputy Superintendent of Police, the MPSC revised the merit list and the petitioner came to be selected and

recommended for the post of Deputy Superintendent of Police/Assistant Commissioner of Police. After selection, and on 18th November, 1998, his caste certificate was referred to Caste Scrutiny Committee for its verification, and the said Committee issued caste validity certificate in favour of the petitioners on 30th July, 1999 after verifying the caste claim of the petitioners. Consequently, the petitioner Manoj came to be appointed as Dy.Superintendent of Police/ Assistant Commissioner of Police by G.R.dated 12th October, 1999.

4. As far as the petitioner Nitin is concerned, it is his case that he was selected through the MPSC for the post of Sales Tax Inspector, Class-II, in the year 1995 from open category. After working as Sales Tax Inspector at Mumbai for two years, in 1996, he came to be selected by MPSC for the post of Class-I officer in Maharashtra Finance and Accounts Service from open category, which he joined in the year 1998. Meanwhile, in the year 1997 he came to be selected by MPSC to the post of Deputy Superintendent of Police/Assistant Commissioner of Police by MPSC in open category. Though he was selected for appointment in open category for the post of Dy.SP on 24th February, 1998, the government referred the caste

certificate of the petitioner to the Caste Scrutiny Committee for its verification. The Caste Scrutiny Committee on verification of the caste claim of the petitioner issued caste validity certificate on 30th July, 1999 to the petitioner. Thereafter, under G.R.dated 12th October, 1999 the petitioner came to be appointed as Dy.SP/Asstt.Commissioner of Police.

5. As regards the petitioner Sunil is concerned, it is his case that caste certificate issued to him on 29th June, 1985 by the Executive Magistrate, Beed was produced for verification by the Caste Scrutiny Committee on 21st August, 1991 and after following the procedure of inquiry, the said Committee issued the caste validity certificate to the petitioner on 17th June, 1993. In 1995 he came to be selected by MPSC for the post of Sales Tax Inspector. In 1997-98 he came to be selected by MPSC for the post of Tahsildar, Class-I, from open category. However, relying upon the representation made by one Mahesh Bhaskar Patil who was selected as Dy.SP, the MPSC revised the merit list. The petitioner made a representation on 24th September, 1998 pointing out that the reservation for ladies in selection process had come to 40% in open category, which had exceeded the prescribed percentage of 30%, on account of which the petitioner was

deprived of being selected for the post of Dy.SP. On account of failure on the part of the Committee to take any decision in the matter, the petitioner filed Writ Petition No.6220 of 1999 wherein by order dated 17th July, 2000, the government was directed to take appropriate decision within eight weeks. Accordingly, in pursuance of government's decision, recommendation for appointment of the petitioner in the post of Tahsildar was withdrawn, and instead was recommended for the post of Dy.SP. Consequently the petitioner came to be appointed as Dy.SP on 20th July, 2001.

6. Pursuant to the complaint made by one Eknath Khadse, MLA, the caste certificates of all the three petitioners were referred for verification to the caste scrutiny committee at Pune. After necessary inquiry into the matter, the Caste Scrutiny Committee held that once the Committee having issued caste validity certificate after necessary scrutiny and inquiry, it is not open for the Caste Scrutiny Committee to review its earlier order in view of Section 7(2) of the Maharashtra Schedule Castes, Schedule Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000,

hereinafter called as "the Caste Certificate Act", and therefore, rejected the reference for verification by its order dated 10th June, 2005. The said order was sought to be challenged by said Shri Eknath Khadse in the Writ Petition No.6146 of 2005 which came to be disposed of by this Court by its order dated 15th September, 2005 observing that in the absence of any power of review being conferred upon the caste verification committee, it would not be open to the committee to review its earlier order.

7. On the basis of the complaint filed by Shri Khadse, MLA, show cause notices came to be issued to the petitioners Sunil and Manoj on 21st October, 2005 and to the petitioner Nitin on 26th October, 2005. Explanation was called for from the petitioners as to why recommendations made for their appointments should not be withdrawn. The petitioners preferred Writ Petitions Nos.2660, 2661 and 2662 of 2005 challenging the legality and validity of the show cause notices which came to be rejected by order dated 21st November, 2005 with the liberty to the petitioners to approach the Maharashtra Administrative Tribunal, Mumbai, for necessary reliefs and keeping all the issues open. Accordingly, the petitioners filed necessary applications before the Maharashtra

Administrative Tribunal, Mumbai, being O.A.Nos.983, 984 and 985 of 2005. The Tribunal under order dated 28th November, 2005 directed the petitioners to file proper application for inspection of certain documents to the MPSC and the latter was directed to allow inspection of such documents. The said order was challenged by the petitioners in Writ Petitions No.3033, 3034 and 3035 of 2005 before the High Court. Pursuant to the assurances given by the learned counsel for the MPSC that the inspection of the relevant documents would be given to the petitioners, the said petitions were disposed of by order dated 22nd December, 2005. The petitioners submitted their application to MPSC in the month of December, 2005 for inspection of the documents. The documents given for inspection were perused by the petitioners, and on perusal thereof, additional and final reply was filed by the petitioners to the show cause notices. The MPSC by its order dated 16th January, 2006 communicated its decision to the petitioners whereby the recommendations made on selection of the petitioners were sought to be withdrawn. The said order was challenged by the petitioners by filing O.A.Nos.52, 53 and 54 of 2006 before the Tribunal on various grounds. However, as the Tribunal did not accede to the request of the petitioners, the present

petitions have been filed.

8. At the outset, one of the points which is sought to be raised by the petitioners and needs to be rejected in limini, relates to the contention about the power of MPSC to withdraw its recommendations once made. The issue is no more res integra and is well settled by the decision of the Apex Court in **Dr.M.C.Bindal's case (supra)**. It is the duty of Public Service Commission to consider and to get itself satisfied as to which of the candidates has fulfilled the requisite qualifications specified in the advertisement and in that regard the Commission is entitled to revise its earlier decision if on re-verification it finds that the candidates sought to be selected do not satisfy the requisite qualification or that the recommendation has been done by flouting the rules of procedure and in total disregard to the statutory provisions or by playing a fraud upon the Commission. Undoubtedly, such power has to be exercised in accordance with the procedure prescribed for the same and without violating the constitutional mandates and statutory provisions.

9. It is not in dispute that the petitioners Manoj and Nitin were appointed in open category,

whereas the petitioner Sunil was appointed in reserved category. It is also not in dispute that all the three petitioners submitted their caste certificates as belonging to Gadi Lohar N.T.(B). It is also not in dispute that the caste claim of the petitioners was subjected to verification by the competent authority and the said authority had confirmed the caste claim of the petitioners. Such confirmation has not been challenged by the respondents before the competent authority.

10. It is the case of the petitioners that Manoj and Nitin having been selected in open category for their appointment as the Deputy Superintendent of Police, there is absolutely no justification for termination of their services or withdrawal of their recommendations on the ground that their caste certificates were bogus. Even otherwise, it is well settled law that a candidate even though is selected in the open category in accordance with the provisions of law, he is always entitled to lay claim to a reserved post, and therefore, no fault could have been found with the appointment of the petitioners and that there was no case for withdrawal of the recommendations regarding the selection of the petitioners. As far as the caste claim of the

petitioners is concerned, it is their case that once their caste claim is verified and confirmed by Caste Scrutiny Committee pursuant to legal proceedings in that regard and such decisions have attained finality, it is not open to the respondent to ignore the same or to arrive at totally different conclusions or to dispute the validity of the caste claim of the petitioners. It is their further case that it is not open to the respondents to order re-validation or re-verification of the caste claim for fanciful reasons. Once the scrutiny committee has confirmed the caste claim of the petitioners, it is not open to any other authorities to order re-verification of the caste claim of the petitioners. In any case, merely because years back, the petitioners' father's caste certificate disclosed a different caste that itself cannot be a ground to cancel the appointment of the petitioners and that too without proper inquiry and without giving them fair opportunity to meet the case of the respondents. It is their further case that the order of termination of their service and that of withdrawal of recommendations are sought to be justified on the basis of the materials which were never disclosed to the petitioners, though were produced for the perusal of the Tribunal and the orders of the MPSC and Tribunal are based on such

undisclosed and unproved materials.

11. It is the contention on behalf of the respondents that the father of the petitioners sought entry in the government employment claiming to be belonging to Lohar which is Other Backward Class (O.B.C.). It is their contention that since the father of the petitioners claimed to be belonging to Lohar Caste, the petitioners herein by producing certificate as belonging to Gadi Lohar N.T. (B), knowing well that the father had obtained entry in the government service as belonging to Lohar (O.B.C.), have played a fraud and have misled the concerned authority and have secured the entry in the public service by misleading the concerned authority, and in suppression of real facts about their caste. According to the respondents, necessary notice in that regard was issued and accordingly action has been taken in consonance with the provisions of law. According to the respondents, show cause notice was validly issued and it contained necessary materials to enable the petitioners to understand the allegations and in the absence of proper and satisfactory explanation given by the petitioners, no fault could have been found with the impugned judgment and order. It is their further case that the contents of internal

inquiry are confidential documents and cannot be revealed to the petitioners. The action of recommendation for withdrawal of names of the petitioners on the part of the MPSC is sought to be justified on four grounds, namely, that the internal inquiry which was conducted by the MPSC revealed that the cast certificates of the petitioners were invalidated as the caste certificates were not issued by the Executive Magistrate of home town of the petitioners. Secondly the petitioners had not availed benefits of reservation at the time of their appearance in the earlier examination held by the MPSC. Thirdly the caste certificate of the father of the petitioners discloses that he belonged to Lohar Caste, and fourthly the internal inquiry revealed that the selection of the petitioners was unmerited and was based on manipulation of examination and selection records.

12. The order dated 16th January, 2006 came to be passed by MPSC recommending withdrawal of the names of the petitioners essentially on four grounds based on which the show cause notices were issued in October, 2005 and those grounds were stated to have been revealed from the internal inquiry. Firstly that the petitioners falsely claimed to be belonging to Gadi

Lohar N.T.(B) tribe and in collusion with the officers of the MPSC and adopting mal-practices in the process of examination and selection, got themselves selected and recommended for the posts for which they came to be appointed, ignoring meritorious candidates for such posts. Secondly all the three petitioners, in connivance with the officers of the MPSC, were involved in the mal-practices in the examination conducted by MPSC in order to enable them to be selected and recommended to the posts of Dy.Superintendent of Police. Thirdly in order to get the post of Dy.Superintendent of Police, various manipulations were made in the examination process as well as the records regarding result of the examination in connivance with the officers of MPSC. And fourthly all the irregularities were committed for the benefit of the petitioners to get them appointed in the posts of Dy. Superintendent of Police and for that purpose, they deliberately submitted invalid and false caste certificates at the time of selection, whilst on earlier occasion the petitioners had not claimed to be belonging to reserved category and all these acts were committed by use of pressure tactics. It was specifically stated in the order dated 16th January, 2006 that the said grounds were clearly established by internal inquiry conducted in the

matter by MPSC pursuant to the complaint received against the petitioners. Based on the order withdrawing the recommendations of the petitioners, the order dated 24th January, 2006 came to be passed by the Government holding that the selection of the petitioners was not based on merits.

13. The orders of withdrawal of recommendation of the names for appointment of the petitioners were sought to be challenged before the Tribunal on various grounds including the ground that those orders were issued in violation of Article 311 of the Constitution of India and were against the rules of natural justice inasmuch as that neither any valid notice was issued nor fair any opportunity of being heard was given to the petitioners before passing the orders on the ground on which they were passed. It was further contention on behalf of the petitioners that the petitioners' caste claims were duly scrutinised by the caste scrutiny committee and it was confirmed that the petitioners belonged to Gadi Lohar N.T.(B) community. Originally the caste certificates were issued by the Executive Magistrates where the petitioners were residing at the relevant time. The decision of caste scrutiny committee was even confirmed by the High court in its order dated 22nd December, 2005 passed in

Writ Petition No.3033 of 2005 and in any case, the MPSC had not disputed validity of the caste certificate validated by the Caste Scrutiny Committee. The Tribunal has dismissed the appeals filed against the orders passed by the MPSC holding that the petitioners had submitted illegal and bogus caste certificate and thus have cheated the MPSC and the recommendations were obtained on the basis that they belonged to Gadi Lohar N.T.(B) category. The examination and the selection process were flouted at the instance of the petitioners and consequently the posts of Dy.SP were secured by them adopting mal-practices.

14. The challenge to the order issued by the Government terminating the services was on the ground that the same was passed without following the principles of natural justice. The Tribunal rejected the said challenge holding that the said order was passed solely on the basis of the recommendations made by the MPSC and hence it could not be said that there was violation of principles of natural justice. It cannot be disputed that if MPSC lawfully withdraws the recommendation, then certainly the government cannot be blamed for passing order terminating the services solely based on the order of MPSC withdrawing the

recommendation. Once the recommendations themselves are lawfully withdrawn, termination of services would become a consequential action, lawfully taken, and in that case there could be no ground to complain of violation of principles of natural justice by the government. It is therefore necessary to ascertain whether the order of withdrawal of recommendations passed by MPSC was lawful and is sustainable.

15. It is the contention on behalf of the petitioners that the grounds, on which the action of withdrawal of names of the petitioners is sought to be justified by the MPSC, are patently illegal and erroneous and cannot withstand the judicial scrutiny. It is their contention that the caste claim of the petitioners was duly verified by the competent authority i.e. the caste scrutiny committee, and therefore, it was not open for the MPSC to question genuineness and validity of the caste certificates of the petitioners. The very foundation for initiation of action was totally faulty and untenable. It is their further contention that the Tribunal ought to have appreciated that the caste claim being finally adjudicated upon by the statutory body duly competent to verify the same and challenge thereto having been rejected and thus the issue having attained finality,

it was not open either for the MPSC to initiate action on fanciful assumption about the invalidity of caste claim of the petitioners or for the Tribunal to dismiss the appeal on the same ground. The attention is also drawn to the observations made in the impugned order by the Tribunal to the effect that "the MPSC is not challenging the validity of the caste certificate issued by the scrutiny committee. It has gone only into the genuineness of the documents," as was submitted by the learned advocate for the MPSC in the course of hearing of the appeals.

16. As regards the caste verification of the petitioners is concerned, it was sought to be contended before the Tribunal that the MPSC could not have sat in appeal over the decision of the caste scrutiny committee and once the caste scrutiny committee had confirmed the validity of the caste certificates of the petitioners, it was not open to the MPSC to take a different view than the one confirmed by the caste scrutiny committee which is a statutory body and final authority to decide on the said subject. The contention has been rejected by the Tribunal stating that though the function of the Tribunal does not permit to go behind the caste scrutiny committee’s decision regarding the caste

claim of the petitioners, the facts disclosed by the MPSC through the inquiry committee report disclose sufficient cause of action taken by MPSC to debar the petitioners on the basis that the petitioners had cheated the MPSC. The findings in that regard are essentially based on the inquiry report. The order nowhere discloses the said inquiry report. It merely refers to the fact that while competing for earlier examination held by the MPSC, the petitioners had not claimed any caste reservation, and secondly that the caste certificate which was produced by their father at the time of his appointment in the government service, disclosed that he belonged to Lohar Caste. It is on these two grounds, the Tribunal has arrived at the finding about the cheating by the petitioners to the MPSC. Merely because on the earlier occasion the petitioners had not sought entry in the service on the basis of their caste claim and on the second occasion, they did make such claim, that by itself can never be justification to doubt the veracity of their caste claim, and to justify the decision to terminate their services on the basis of such doubt. Merely because the father of the petitioners had secured entry in the government service on the basis that he belonged to Lohar Caste, that by itself cannot be a sufficient to accuse the petitioners of cheating MPSC.

It is pertinent to note that the competent authority while dealing with the verification of the caste claim had verified the caste claim of the petitioners and had confirmed their claim in that regard. Being so, if the MPSC wanted to dispute the said confirmation by the said competent authority, it was necessary for the MPSC to challenge the decision of the said authority before this Court and could not have suo motu decided to flout the decision of such competent authority on the subject which was essentially to be dealt with by such competent authority and which was within its jurisdiction. Secondly undisputedly the caste claims of the petitioners were confirmed on verification by the competent authority, it is not the case of the respondents that the caste claim of the father of the petitioners was verified in the same manner. Being so, it was too premature for the MPSC to arrive at a conclusion that there was cheating by the petitioners merely because their caste claims, which were duly verified, were contrary to the caste claim of their father. Once the caste claim of the petitioners was verified and confirmed by the competent authority, it was not open for the MPSC to arrive at a conclusion that the caste claim of the petitioners was not a genuine claim. Both these aspects were totally ignored by the Tribunal while holding that the

petitioners had cheated the MPSC. Besides, in any case, the decision of the Scrutiny Committee having attained finality it was binding upon the MPSC. Section 7(2) of the Caste Certificate Act clearly provides that "the order passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or court except the High Court under Article 226 of the Constitution of India." Even in case of fraud, it is necessary for the party complaining of fraud to establish the same in appropriate proceedings before the appropriate forum, and cannot itself assume jurisdiction to complain and pronounce judgment on such allegation of fraud in total disregard to the statutory provisions comprised under the Caste Certificate Act. That apart, perusal of Section 7(1) of the Caste Certificate Act itself reveals that an employer can refer the matter for verification of the caste claim by his or her or its employee. Even after such verification by such Caste Scrutiny Committee, there is no prohibition for referring the matter again for verification of the caste claim of the employee. In fact, Section 7(1) of the Caste Certificate Act clearly provides that where a person not belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special

Backward Category has obtained a false caste certificate to the effect that either himself or his children belong to such Castes, Tribes or Classes, the Scrutiny Committee may, suo motu, or otherwise call for the record and enquire into the correctness of such certificate and if it is of the opinion that the certificate was obtained fraudulently, it shall, by an order cancel and confiscate the certificate by following such procedure as prescribed, after giving the person concerned an opportunity of being heard, and communicate the same to the concerned person and the concerned authority, if any. Though sub-section (2) gives finality to such order, till challenged before the High Court, that does not appear total prohibition for re-verification of the caste claim. Finality spoken of to such order under Sub-section (2) of Section 7 of the Caste Certificate Act is undoubtedly in relation to the decision of the Caste Scrutiny Committee on the point of caste claim. However, that by itself can hardly lead to a conclusion that the power, or rather duty cast upon the Caste Scrutiny Committee to ascertain as to whether the caste claim is genuine and bonafide and whether the caste certificate was fraudulently obtained is curtailed. In case, the Commission had doubt about the genuineness of the caste certificates

or that the Caste Scrutiny Committee in its verification for the first time had failed to take note of the said fact, one fails to understand as to what could have prevented the Commission from referring the matter for re-verification of the caste claim of the petitioners. The order of this Court relates to the power of review and not of re-verification of a claim.

17. The petitioners also contend that there were no notices in law and the alleged notices issued in October 2005 were vague and contrary to the provisions of law. It is the contention of the petitioners that the alleged show cause notices apparently refer to the alleged misconduct on the part of the petitioners and the proposed penalty, and the petitioners were required to show cause against the levy of such penalty. In other words, while issuing order dated 16th January, 2006 even without giving proper show cause notice and hearing to the petitioners on the allegations which were sought to be made regarding misconduct on their part, the petitioners were held to be guilty of the alleged misconduct. This, according to the petitioners, is contrary to the law laid down by the Apex Court in **Yoginath D.Bagde v. State of Maharashtra & Anr.,** reported in (1999) 7 SCC 739. According to the petitioners, this has been totally

overlooked by the Tribunal. It is further contention on behalf of the petitioners that the notices which were issued to the petitioners by the MPSC were vague and without disclosing any sufficient material to enable the petitioners to meet the case of the MPSC. Undoubtedly the notices referred to conspiracy and improper means having been adopted by the petitioners to secure selection and consequential recommendations for appointment for the posts in which they were appointed. However, as rightly contended on behalf of the petitioners, it was a mere allegation without any factual basis. What was the conspiracy, with whom and when it was hatched, there was absolutely no mention thereof in the notices. The notices did not accompany any material to disclose any of such particulars. To substantiate a charge of conspiracy, it was absolutely necessary for the MPSC to disclose facts which could reveal involvement of the petitioners in the alleged conspiracy as well as in adoption of improper means either in the examination or in the selection process or for the purpose of recommendations for appointment for the posts in which the petitioners came to be appointed. Mere statement or charge of involvement in adoption of malpractices and the conspiracy without supporting materials being disclosed cannot be the basis for show cause notice requiring the employee to

show cause against the proposed penalty, and any decision based on such notice and that too without any inquiry is absolutely bad in law as it is not only contrary to the basic principles of natural justice but it is against the well settled principles of law and also in violation of constitutional mandate under Article 311 of the Constitution as well as the statutory provisions of law applicable to the government employees.

18. It is pertinent to note that the show cause notices which were given in October, 2005 to the petitioners were based on four grounds which were stated to have been revealed from the internal inquiry held pursuant to the complaint received by the Commission. It was stated in the show cause notices that the petitioners were selected by committing irregularities and side-tracking merits of examination and conspiring with the concerned officials of the Commission and those irregularities and acts on the part of the petitioners were enumerated under four grounds. The first ground stated that the petitioners submitted to the examination claiming to be belonging Gadi Lohar N.T.(B) category when in fact they were not belonging to the said category and furnished invalid certificates from Tahsildar and Executive Magistrate

of Beed when the petitioners in fact hailed from Jalgaon and that therefore, the caste validity certificates were bogus and to that extent, the petitioners cheated the MPSC. Secondly, it was stated that by way of varied irregularities and side-tracking merits of the examination, the petitioners got themselves recommended to the post of Dy.SP/ACP. Thirdly the petitioners got appointed to the post of Assistant Commissioner of Police by dereserving the post reserved for women, otherwise the petitioners would not have been recommended to the said post, and fourthly all the irregularities were committed for the benefit of the petitioners to get them appointed in the post of Dy.SP and for that purpose, they deliberately submitted invalid and false caste certificates at the time of selection, whilst on earlier occasion, the petitioners had not claimed to be belonging to reserved category and all these facts proved that by bringing pressure, the petitioners had become disqualified permanently. Plain reading of the said show cause notices clearly discloses that the entire proceedings were initiated on the basis of the inquiry and the grounds enumerated in the show cause notices were based on such internal inquiry. However, no details in that regard were either disclosed in the show cause notices nor there was any supplement or a

statement in support of the show cause notices disclosing details about inquiry or the basis on which the grounds were formulated in the show cause notices. Mere ground without disclosure of factual foundation cannot give sufficient opportunity to the addressee of the notice to meet the case of the authority issuing such notice. Besides, the statement that "by way of varied irregularities and side-tracking merits of the examination", the petitioners were alleged to have been appointed to the post of Dy.SP. Not a single incident or particulars regarding so called varied irregularities or side-tracking merits of examination were referred to in the show cause notices nor any material in that regard, admittedly, was revealed to the petitioners at any point of time. In these circumstances, the petitioners are justified in contending that the show cause notices were vague and prejudicial to the petitioners.

19. It is further contention on behalf of the petitioners that the Tribunal while dismissing the appeals has passed its decision solely on the basis of the contents of the file produced by the MPSC for perusal of the Tribunal, without disclosing the contents thereof to the petitioners and without giving opportunity to the petitioners to have access to the

said file and to place before the Tribunal their say in the matter. This, according to the petitioners, is totally contrary to the basic principles of natural justice. It is further contention on behalf of the petitioners that refusal on the part of the MPSC to show the file relating to internal inquiry and further perusal thereof by the Tribunal and to arrive at the conclusion on the basis of contents of the said file is totally illegal, unjustifiable and impermissible. It clearly shows that the decision of MPSC as well as that of the Tribunal are based on the internal inquiry without disclosing the contents thereof to the petitioners, and yet totally detrimental to the interest of the petitioners. According to the petitioners, the Tribunal erred in allowing the respondents to place before it the file regarding alleged inquiry without disclosing the contents thereof to the petitioners and to rely upon the same as the basis for final decision in the appeals. It is further contention on behalf of the petitioners that though the Tribunal has referred several decisions in the impugned judgment, it failed to take note of the ratio and the principles laid down by those decisions and to ascertain whether they are applicable to the case in hand. Without assigning any reason, the Tribunal erred in ignoring the said decisions.

20. As regards the violation of the principles of natural justice by the MPSC before passing the order withdrawing recommendations, the Tribunal, while rejecting the challenge in that regard, has held that the findings of the internal inquiry recorded in the file clearly justify the decision of the MPSC. It is pertinent to note that the Tribunal under its interlocutory order dated 28th November, 2005, had directed the inspection of the documents to the petitioners. However, undisputedly, the copy of the complaint and the internal inquiry proceedings were not shown to the petitioners. As regards the said internal inquiry report is concerned, the matter had come before this Court in Writ Petition No.3033 of 2005 and two others wherein MPSC itself had stated that there was no such inquiry report. It was clearly recorded in the order of this Court passed on 22nd December, 2005 in said petitions that:-

> "Since, there is no enquiry report as contended by Mr.Brahman and since M.P.S.C. is not relying upon any enquiry report, there is no question of giving a copy of the same to the petitioners."

However, the impugned order discloses that the MPSC had produced before the Tribunal the file in respect of the internal inquiry. The observations made in the impugned order by the Tribunal read thus:-

> "The MPSC has also stated that there is no inquiry report. The learned advocate appearing on behalf of MPSC has made available the relevant file in this regard. The file shows that the internal inquiry conducted by the Commission has revealed that the recommendation in respect of the three applicants was in fact unmerited and the caste certificates submitted by them saying that they belong to Gadi Lohar community are in fact invalid and are fraudulently obtained. The file shows that the internal enquiry was conducted by the Secretary of the MPSC. The findings of the inquiry have been recorded in the file. There does not seem to be any separate enquiry report."

These observations clearly disclose that there was

internal inquiry conducted and the findings were arrived at on the basis of such inquiry and at the same time, it is undisputed fact that the said inquiry report or the findings or the proceedings were never made available for perusal by the petitioners. Yet the findings arrived at in such inquiry were the sole basis for arriving at the decision for withdrawal of the recommendations by the MPSC. This clearly discloses violation of principles of natural justice, as also arbitrary exercise of powers by the Tribunal in confirming the decision of the MPSC so arrived at and of the government on the basis of such withdrawal of recommendations has terminated the services of the petitioners.

21. It is further contention of the petitioners that the Tribunal erred in relying upon the decisions in **R.Vishwanatha Pillai v. State of Kerala,** reported in AIR 2004 SC 1469 without considering the ratio of the said decision and without ascertaining whether the said ratio is attracted in the facts and circumstances of the case in hand by comparing the facts of the case in hand to the facts of the decided case. Undoubtedly, the validity of the petitioners' caste claim was duly established by the competent authority and it was confirmed pursuant to the rejection of

challenge thereto by the High Court. The matter was not carried further before the Apex Court and therefore, the decision regarding the caste claim of the petitioners had attained finality. That was not the case in **R.Vishwanatha Pillai's case (supra).**

22. The petitioners are certainly justified in contending that the Tribunal has totally misread the decision of the Apex Court in **Krishna Chandra Tandon v. The Union of India,** reported in AIR 1974 SC 1589. In the cases in hand, the entire decision of MPSC was based upon the internal inquiry, statements recorded therein as well as the documents produced therein and final findings based on such inquiry, and therefore, in substance the internal inquiry was the basis for conclusions which are sought to be arrived at in the show cause notice and the order passed pursuant to reply to such show cause notices. Being so, in order to enable the petitioners to meet the case of the MPSC, it was absolutely necessary for the MPSC to furnish copies of all the materials which were relied upon to arrive at the findings which were arrived at in the inquiry. It is pertinent to note that no departmental inquiry was conducted. In those circumstances, it cannot be said that the decision of the Apex Court is of any help to the respondents to

justify non disclosure of internal inquiry proceedings to the petitioners before imposing penalty. On the contrary, in **Krishna Chandra Tandon's case (supra)**, it was clearly ruled that "these documents of the nature of interdepartmental communications between officers preliminary to the holding of enquiry have really no importance unless the Enquiry Officer wants to rely on them for his conclusions." Undisputedly, the authority has relied upon such documents in the case in hand, and yet they have not been disclosed to the petitioners. In fact, the Tribunal's order as well as that of MPSC are clearly in contravention of law laid down by the Apex Court in **K.Vijayalakshmi v. Union of India & Ors.,** reported in AIR 1998 SC 2961. In **K. Vijayalakshmi's case (supra)**, wherein it was held that the action on the basis of report of the expert which related to unfair means adopted by the examinee without supplying copy of such report to the candidates was bad in law and unsustainable.

23. It is also sought to be contended on behalf of the petitioners that when the matter came up before the High Court, a solemn statement was made on behalf of the MPSC that there was no report of any internal inquiry and they were not relying upon such internal inquiry. On the contrary, when the matter came up

before the Tribunal, the entire thrust was upon the internal inquiry report and in fact the judgment of the Tribunal is also based on the findings arrived at in such internal inquiry, without disclosure thereof to the petitioners. Once it was clear that the order passed by the MPSC was based upon the internal inquiry and the findings arrived at therein, it is but natural that the inquiry proceedings are the basis to hold the petitioners to be guilty of alleged misconduct. Obviously, therefore, copies thereof were required to be furnished as a matter of right to the petitioners before any action was taken on the basis of such inquiry, as was clearly held by the Apex Court in **Krishna Chandra Tandon's case (supra).**

24. The contention on behalf of the petitioners that the impugned order is full of contradictory findings cannot be said to be unreasonable or without justification. At one place, the Tribunal has observed that it is not the function of the Tribunal to go behind the decision of the caste scrutiny committee regarding caste claim of the petitioners and very next moment the Tribunal has proceeded to hold that the caste certificate produced by the petitioners is not valid and that therefore recommendations by the MPSC were invalid. While on one hand the Tribunal

refers to well settled law that the caste scrutiny committee's decision on the caste verification is final and binding on all the parties and the Tribunal cannot sit in appeal over the decision of the caste scrutiny committee and still it has disregarded the final decision of such committee on the caste claim of the petitioners.

25. As rightly contended on behalf of the petitioners, the findings arrived at by the Tribunal apparently refers to the internal inquiry disclosing criminal conspiracy and other misconduct on the part of the petitioners. However, the relevant documents in that regard which were the basis for a decision by the MPSC as well as the Tribunal had been, admittedly, never supplied to the petitioners and yet the said documents were made the basis for a decision prejudicial to the petitioners thereby denying fair opportunity to the petitioners to meet the case of the MPSC before dislodging them from the post in which they were appointed by following due process of law. The decision of the MPSC as well as the Tribunal is highly improper and unjustifiable.

26. It is further contention of the petitioners that the Tribunal failed to take into consideration

the fact that the MPSC has no power to ignore the status of the petitioners as being belonging to the reserved category in Gadi Lohar N.T.(B) and to deny the validity of the caste certificates and MPSC was bound by the decision of the High Court upholding the validity of the caste certificates and status of the petitioners. Indeed having ignored the same, the MPSC has clearly disregarded the statutory provisions in that regard and has illegally imposed penalty upon the petitioners resulting in injustice to the petitioners. The petitioners, in the facts and circumstances of the case, are justified in contending that for the same reason, the Tribunal ought to have considered that the Government could not have mechanically accepted the recommendations of the MPSC without application of mind and without its own independent decision and without following the prescribed procedure and without considering the relevant materials and provisions of law.

27. In relation to the petitioner Sunil’s case, it can hardly be disputed that the Tribunal failed to consider that it was upon representation made by him to the government, the latter had considered the case of the petitioners and upon direction issued by this High Court to consider factum of 30% reservation to

the women instead of 40% reservation which was carved out, the entire reservation was worked out afresh and in that view of the matter, the petitioner came to be appointed for the post in which he was appointed instead of Tahsildar. Considering this factual position, there was no scope for entertaining and sustaining the allegations made by the MPSC.

28. It is pertinent to note that consequent to the show cause notice, no inquiry was held nor any charge sheet was issued, and straightway the order was passed withdrawing recommendations and based on which the order was issued terminating the services of the petitioners. This is clearly in complete violation of the law laid down by the Apex court in number of cases including the decision in **Anoop Jaiswal v. Government of India,** reported in 1984 SCC (L&S) 256. Therein it was clearly ruled that "where the report/recommendation of the superior authority is the basis or foundation for the order, that should be read along with the order for the purpose of determining its true character. If on reading the two together the court reaches the conclusion that the alleged act of misconduct was the cause of the order and that but for that incident it would not have been passed then it is inevitable that the order of discharge should

fall to the ground where the aggrieved officer is not afforded a reasonable opportunity to defend himself as provided in Article 311(2)". It was further held in the facts and circumstances of **Anoop Jaiswal's case (supra)** that from the record and the attendant circumstances it was clear that the real foundation for the order of discharge of the probationer was the alleged act of misconduct and further that the punishment was levied without disclosing necessary materials to the probationer, and therefore, the order which was by way of punishment and in the absence of necessary inquiry in accordance with Article 311(2), was liable to be struck down. Applying the law laid down by the Apex Court in **Anoop Jaiswal's case (supra)** to the facts of the case in hand, it would clearly disclose that the action taken by the respondents against the petitioners is totally arbitrary and in colourable exercise of its powers and is not sustainable in law and for the same reason, the impugned judgment of the Tribunal is also unsustainable.

29. The Apex Court also reiterated its decision in **Parshotam Lal Dhingra v. Union of India,** reported in AIR 1958 SC 36 wherein it was clearly ruled that if the termination of service is sought to be founded on

misconduct, negligence, inefficiency or other disqualification, then it is punishment, and requirement of Article 311(2) must be complied with. Reference was also made to the case of **Samsher Singh v. State of Punjab,** reported in AIR 1974 SC 2192 wherein it was held that if a probationer is discharged on the ground of misconduct or inefficiency or for similar reason without a proper inquiry and without his getting a reasonable opportunity of showing cause against his discharge, it may in a given case amount to removal from service within the meaning of Article 311(2) of the Constitution. It was also held that it is well settled that where the form of the order is merely a camouflage for an order of dismissal for misconduct, it is always open to the court before which the order is challenged to go behind the form and ascertain the true character of the order. If the court holds that the order though in the form is merely a determination of employment is in reality a cloak for an order of punishment, the court would not be debarred, merely because of the form of the order, in giving effect to the rights conferred by law upon the employee.

30. The decision in **Bank of India & Anr. v. Avinash D. Mandivikar & Ors.,** reported in 2005 III

CLR 582 is on the point that mere delay in making a reference does not invalidate the order of the Scrutiny Committee, particularly when fraud is played in obtaining the caste certificate. The decision in **Bhaurao Dagdu Paralkar v. State of Maharashtra & Ors.,** reported in JT 2005(7) SC 530 is on the aspect of meaning of the term "fraud". Similar is the case in the matter of the **State of Andhra Pradesh & Anr. v. T.Suryachander Rao,** reported in JT 2005(6) SC 391. In **Anjan Kumar v. Union of India & Ors.,** reported in (2006)3 SCC 257, the sole question involved in the matter was whether the offshoot of the wedlock between a trible woman and a non-trible man could claim status of Schedule Tribe and get the Schedule Tribe certificate.

31. In **Vice-Chairman, Kendriya Vidyalaya Sangathan & Anr. v. Girdharilal Yadav,** reported in (2004)6 SCC 325, the competent authority on inquiry found that the candidate was admittedly resident of Haryana and yet he had obtained caste certificate showing as resident of Rajasthan knowing well that Ahirs and Yadavs were not treated as OBC at the relevant time in Haryana and the candidate was given enough opportunity of being heard on the point before taking any action.

32. In **Union Public Service Commission v. Jagannath Mishra,** reported in (2003)9 SCC 237, it was ruled that it cannot be held as a principle that wherever there is no report from the invigilator indicating adoption of malpractice in any examination, the appropriate authority cannot come to the conclusion about the adoption of malpractice. It would always be a case depending upon the materials produced and there would be no bar for an expert body to come to a definite conclusion about adoption of malpractice in an examination even in the absence of a report of the invigilator to that effect. It would always be a question of fact to be decided on the basis of materials produced before the expert body. In that case the ultimate conclusion of UPSC was not held to be a conclusion of an unreasonable man so as to be interfered with by a court of law. Where findings are based on probabilities and circumstantial evidence, such findings cannot be said to have been based on no evidence. One fails to understand how this decision is of any help to the respondents in the facts and circumstances of the case.

33. In **Krishna Chandra Tandon v. The Union of India,** reported in AIR 1974 SC 1589, it was held that it is very necessary for an authority which orders an

enquiry to be satisfied that there are prima facie grounds for holding a disciplinary enquiry and, therefore, before he makes up his mind he will either himself investigate or direct his subordinates to investigate in the matter and it is only after he receives the result of these investigations that he can decide as to whether disciplinary action is called for or not. Therefore, these documents of the nature of interdepartmental communications between officers preliminary to the holding of enquiry have really no importance unless the Enquiry Officer wants to rely on them for his conclusions. In that case it would only be right that copies of the same should be given to the delinquent. Obviously, therefore, if the Tribunal has sought to justify the action taken by MPSC solely on the basis of internal inquiry, it was absolutely necessary to furnish a copy thereof to the petitioners before being relied upon.

34. In **A.P.Public Service Commission v. Koneti Venkateswarulu & Ors.,** reported in (2005)7 SCC 177, it was held that the fact that respondent candidate was already employed and working as teacher had not disclosed, by keeping the relevant column of the application form pertaining to previous employment blank and a declaration was given in Annexure III that

he was not working elsewhere and thus the information furnished by him was not true and correct and that therefore his candidature was liable to be cancelled. The respondent therein was selected for the post of Women and Child Welfare Officer but before he could be notified about the result, the Commission having come to know about the said suppression of material fact by the candidate, cancelled the recommendation. The respondent sought to explain that he had inadvertently filled up and signed Annexure III which was intended only for candidates seeking fee exemption for unemployed youth in the age group of 18-35 years and was not applicable to him. The finding that the explanation was not satisfactory and taking the view that respondent had deliberately indulged in suppression of relevant information, the Commission cancelled the candidature of respondent. It was held that it was not for the candidate to decide which information was relevant and required to be furnished and which one need not be furnished and the person who indulges in suppressio veri and suggestio falsi does not deserve public employment. That is not the case in hand. The decision is clearly distinguishable on facts. In the case in hand, there was neither any suppression of any fact necessary for getting selected for appointment nor it was the case of the MPSC to

that effect.

35. In **Bihar Public Service Commission & Anr. v. Vinoy Kumar Singh & Anr.,** reported in (2003)7 SCC 28, the answer-books submitted were found to be based on materials smuggled from outside, the signature of the invigilator was found to be forged, and the ink marks on the main answer-sheet were found to be different from the one used in the answer-sheets. The Single Judge found one of the charges proved and affirmed the finding of the Commission. The Division Bench in appeal held that the denial of comparison of the signatures of the invigilator was in violation of the principles of natural justice and the Commission was not authorised to take any steps after the publication of the results. The Division Bench also held that the application of Rules is confined to cases where detection of unfair means is within the examination hall during the course of the examination and not thereafter. It was held by the Apex Court that the finding of the Single Judge as to difference in signatures of the invigilator was correct, the Commission was entitled to initiate action against any candidate if he was found guilty of resorting to any irregularity or improper means for obtaining admission or using any other unfair means. It was further held

that R.15-A cl.(iii) of the Bihar Civil Services (Executive Branch) and Bihar Junior Civil Services (Recruitment) Rules, 1951 specifically provides for dealing with a candidate found guilty of submitting fabricated document or documents which have been tampered with. While allowing the appeal, the Supreme Court held that the authorities of the Commission had acted within the four corners of the rules, regulations and executive instructions, and they had adhered to the rule of law. Again on facts, the decision is clearly distinguishable. In the case in hand, not a single fact is revealed and establish which would prove that the petitioners had adopted any malpractice in the process of examination, including evaluation of the papers and selection process.

36. In **Maharashtra State Board of Secondary and Higher Secondary Education v. K.S.Gandhi & Ors.,** reported in (1991)2 SCC 716, it was held that show cause notices were issued to the students on July 30, 1990 informing them of the nature of tampering, the subjects in which the marks were found tampered with, the marks initially obtained and the marks increased due to tampering, and also indicated the proposed punishment if in the enquiry, it would be found that marks were tampered with the knowledge or connivance

or at the instance of the candidates or parents or guardians. The students were also informed that they would be at liberty to inspect the documents at the Divisional Board at Bombay. They were entitled to adduce documentary and oral evidence at the hearing and to cross-examine the witnesses of the Board, if any. The candidates submitted their explanations denying the tampering and appeared before the Enquiry Officers. At the enquiry, each student inspected the record. A questionnaire was given to be filled in writing. Every candidate was shown his answer book, marks awarded in the subject/subjects and the tampered marks in the moderators' marks sheets. The students were asked to testify whether the answer books belonged to him or her and to identify the marks awarded by the examiner to each answer to the question and the total marks awarded. They were also asked to verify and state whether the moderator's marks sheets were tampered with in the concerned subject or subjects as the case may be. The Enquiry Officers submitted their report to the Board holding that the moderators' mark sheets had been fabricated. The Standing Committee constituted in that regard on consideration of the records and the reports resolved to withhold, as a measure of punishment, the declaration of the results of their examinations and

to debar the 283 students to appear in the supplementary examination to be held in October 1990 and March 1991. A notification was published accordingly. In the background of those facts, it was held that a conspectus of the relevant provisions of the Act, regulations and resolutions clearly covered the entire field of operation regarding the use of unfair means at the final examinations and the procedure to deal with the same. And, therefore, the procedure adopted at the inquiry was fair and just and it was not vitiated by any procedural irregularity nor was violative of the principles of natural justice. That was far from the facts of the case in hand while it apparently discloses even total violation of the rules of natural justice. There is total failure on the part of MPSC to observe even the rules of procedure regarding inquiry in the matter of the petitioners before taking drastic action of withdrawal of recommendations for their appointment in the posts of Dy.SP.

37. In **Dr.M.C.Bindal v. R.C.Singh & Ors.,** reported in AIR 1989 SC 134, it was held that advertisement for the post was made at the instance of the U.P.Public Service Commission and the requisite

qualification for the post had been specified in the advertisement. It was, therefore, essential that a candidate in order to be considered for appointment for the said post ought to have complied with the requisite qualification namely the educational qualification as well as the experience in drug testing etc. for a period of five years. If any of those essential qualifications was lacking then the candidate could not have claimed to be appointed in the said post. Yet the U.P.Government had appointed Dr.M.C.Bindal as the Food & Drug Controller. His appointment was subjected to challenge before the High Court wherein the Government was directed to consider the decision regarding the appointment of Dr.M.C.Bindal afresh. Meanwhile, the Commission duly verified the certificates of the candidate in regard to his experience and after considering his report as well as the certificates came to the conclusion that the candidate though fulfilled educational qualifications lacked in the requisite experience. The Commission, therefore, revised its earlier decision and withdrew the candidature and also cancelled its recommendation earlier given. It was held that the decision of the Commission in withdrawing the candidature and cancellation of recommendation was not invalid. It is constitutional

requirement envisaged in Art.320 of the Constitution that the Commission will have to perform the duty of recommending the candidate fulfilling all the requisite qualifications for the post to the Government for being considered for appointment to the post concerned. Clearly the appointment of Dr.Bindal was not final and was required to be made afresh and meanwhile his name was withdrawn. In those circumstances, and on account of the fact that he did not satisfy the eligibility criteria that his name was withdrawn. This is not the case in the matter in hand.

38. As regards the judgments sought to be relied upon on behalf of the respondent No.2, they are hardly of any assistance to justify the impugned orders. It cannot be disputed that many a times unscrupulous persons obtain benefits of reservations falsely claiming to be belonging to reserved category. However, once the Scrutiny Committee who is the competent authority verifies the caste claim and certifies the same in favour of the candidate, unless it is challenged before the High Court, with success, no other authority can assume jurisdiction and declare that caste claim to be bogus. The decision in **Kumari Madhuri Patil & Anr. v. Additional Commissioner,**

Tribal Development & Ors., reported in AIR 1995 SC 94 is of no help to the MPSC in the case in hand.

39. In the facts and circumstances of the cases in hand and for the reasons disclosed hereinabove, the impugned orders cannot be sustained and are liable to be quashed and set aside and the respondents are liable to be directed to reinstate the petitioners in the posts they were holding on the day of termination of their services with the consequential benefits, excluding the back wages for the period from the date of termination of their services till the date of their reinstatement as neither there are pleadings, nor the proof about they being not gainfully employed during the said period.

40. In the result, therefore, all the three petitions are hereby allowed. The impugned orders are hereby quashed and set aside. The respondents are directed to reinstate within six weeks the petitioners in the posts they were holding on the day of termination of their services, with all the consequential benefits, except the back wages for the period from the date of termination of their services till the date of their reinstatement. Rule made absolute in above terms with costs.

(R.M.S.KHANDEPARKAR, J)

(D.G.KARNIK, J)